

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA**

NANCY ANN BURKE, as Personal
Representative for the Estate of DAVID K.
BURKE, and NANCY ANN BURKE,
individually, and RUSSELL DAVID
BURKE, and JEFFREY JOHN BURKE, and
KATHERINE ELIZABETH BURKE, and
VICTORIA JANE BURKE,

Plaintiffs,

v.

WINNEBAGO INDUSTRIES, INC.,
LIPPERT COMPONENTS, INC., and LCI
INDUSTRIES,

Defendants.

LIPPERT COMPONENTS, INC., and LCI
INDUSTRIES,

Defendants and Third-Party
Plaintiffs,

v.

ENGINEERED SOLUTIONS, L.P. and
ENERPAC TOOL GROUP CORP.,

Third-Party Defendants.

Civil Action No.: 21-cv-3020

**PLAINTIFFS' OBJECTIONS TO PORTIONS OF U.S. MAGISTRATE
KELLY E. MAHONEY'S MEMORANDUM OPINION AND
ORDER ENTERED 12/28/2022 (Doc. 118)**

COME NOW Plaintiffs, by and through the undersigned counsel, and, pursuant to Federal Rule of Civil Procedure 72, and Local Rule 72A, hereby lodge the following objections to U.S. Magistrate Mahoney's *Memorandum Opinion and Order* on Plaintiffs' *Motions to Amend*

Complaint and Extend Deadlines because of an alleged inability to demonstrate diligence and good cause good cause, asking the Court to reexamine these findings and in support thereof states:

OBJECTIONS

1. Plaintiffs object to the Magistrate Judge's denial of Plaintiffs' Motion to Amend Petition, Continue Trial and Extend Discovery Deadlines (Doc. 118) finding there was not good cause to permit the amendment, extend discovery deadlines, and to continue the trial;

2. Plaintiffs object to the Magistrate Judge's finding Plaintiffs were dilatory in pursuing discovery as a reason to refuse to grant Plaintiffs' Motion as it is clearly erroneous and contrary to the law and the facts of this case; (Doc. 118, pg. 8-9)

3. Plaintiffs object to the Magistrate Judge's finding that Plaintiffs cannot show diligence to meet scheduling order deadlines as clearly erroneous as it fails to apply federal law (and state law) to the facts of this case. (Doc. 118, pg. 8-9)

4. Plaintiffs have attached a Brief in Support of Plaintiffs' Objections hereto.

WHEREFORE Plaintiffs respectfully request the District Court for an Order setting aside the Magistrate Judge's order denying Plaintiffs' Motion for Leave to amend the operative complaint

RELIEF REQUESTED

Plaintiffs respectfully request that the District Court reexamine the Magistrate Mahoney's Order dated December 28, 2022, and set aside the subject portions of said order for the reasons cited in the brief filed in support of these objections.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon all parties and/or each of the attorneys of record of all parties to the above-entitled cause in the manner specified below to each such attorney at such attorney's address as disclosed by the pleadings herein on the **11th day of January, 2023** by electronically filing the foregoing with the Clerk of Court using the ECF system which will send notification to the parties.

Signature: /s/ Nicholas S. Gurney
NICHOLAS S. GURNEY, ESQ.
Pro Hac Vice

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